100TH GENERAL ASSEMBLY
State of Illinois
2017 and 2018

SB3133


SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/6z-26

Creates the Regulatory Sandbox Act. Creates the regulatory sandbox to enable persons to obtain limited access to the Illinois marketplace in order to test innovations in financial products or services. Provides requirements for approval to enter the regulatory sandbox, the application fee, and approval or denial time. Provides requirements for operating an innovation in the regulatory sandbox and extending a test period. Contains provisions regarding rules and judicial review of the administration of this Act. Makes conforming changes in the State Finance Act. Effective January 1, 2019.

LRB100 18452 XWW 33667 b

FISCAL NOTE ACT
MAY APPLY
AN ACT concerning regulation.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Regulatory Sandbox Act.

Section 5. Definitions. As used in this Act:

"Consumer" means a person who purchases or otherwise enters into a transaction or agreement to receive an innovative financial product or service tested by a person participating in the regulatory sandbox.

"Department" means the Department of Financial and Professional Regulation.

"Division of Financial Institutions" means the Division of Financial Institutions of the Department of Financial and Professional Regulation.

"Financial institutions" means ambulatory and community currency exchanges, credit unions, guaranteed credit unions, persons engaged in the business of transmitting money to foreign countries or buying and selling foreign money, pawners' societies, title insuring or guaranteeing companies, and persons engaged in the business of making loans of $800 or less.

"Financial product or service" means a product or service
regulated by the Department's Division of Financial Institutions or a product or service that includes elements that may otherwise require a license, certification, or recognition as a financial institution or enterprise regulated by the Department's Division of Financial Institutions.

"Innovation" means, with respect to a product or service, that which uses or incorporates new or emerging technology, or new uses for existing technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that has no comparable widespread offering in the marketplace regulated by the Department's Division of Financial Institutions.

"Person" means an individual, partnership, joint venture, trust, estate, firm, corporation, association, or cooperative society or association.

"Regulatory sandbox" means the program established by this Act that allows a person to temporarily test innovative financial products, services, business models, or delivery mechanisms on a limited basis without being required to first obtain a license, certification, or recognition as a regulated financial institution or enterprise.

"Secretary" means the Secretary of Financial and Professional Regulation.

Section 10. Purpose. The purpose of the regulatory sandbox is to enable a person to obtain limited access to the Illinois
marketplace in order to temporarily test innovations through the regulatory sandbox, including allowing the person to test innovations without first having to obtain licensure with the Department.

Section 15. Applications; review.

(a) A person may apply to the Department to enter the regulatory sandbox to temporarily test innovations before releasing the innovation to Illinois consumers.

(b) An application to enter the regulatory sandbox shall be in a form prescribed by the Secretary.

(c) At the time of application, an applicant shall provide the Department with an accurate and up-to-date email address.

(d) If an applicant is a corporation, the applicant must be in good standing and in statutory compliance with the state or country of its incorporation. If an applicant is an entity other than a corporation, the applicant must be properly registered under the laws of this State or another state or country. If required by the Department, the applicant must be authorized to do business in the State of Illinois.

(e) A financial institution already regulated by the Department's Division of Financial Institutions must file an application to test products or services that are outside the scope of its current license.

(f) The fee for an application to enter the regulatory sandbox is $500 per innovation.
(g) All moneys received by the Department under this Act shall be deposited in the Financial Institution Fund created under Section 6z-26 of the State Finance Act.

(h) The Department shall approve or deny an application within 90 days after the date of receipt of the application. The Department and the applicant may agree to extend the time beyond 90 days.

Section 20. Operation.

(a) An applicant approved for the regulatory sandbox has 12 months from the date of approval to test the innovation.

(b) Consumers upon whom innovations are tested must be Illinois residents.

(c) No more than 5,000 Illinois consumers may transact through or enter into an agreement to use the innovation.

(d) At the end of the innovation's 12-month test period, a person testing an innovation must exit the regulatory sandbox and wind down the operation of the innovation within 60 days, except as otherwise provided in Section 25.

(e) Before temporarily testing an innovation, a person approved for the regulatory sandbox must disclose, in a clear and conspicuous form, to Illinois consumers:

   (1) the name and contact information of the person providing the innovation;

   (2) that the innovation is authorized pursuant to the regulatory sandbox and not pursuant to any license issued
by the Department;

(3) that the State of Illinois does not endorse or recommend the innovation;

(4) that the innovation is a temporary test that may be discontinued at the end of the test period, including the expected end date of the test period; and

(5) the name and contact information for the Department, including where a consumer may file a complaint regarding the innovation.

These disclosures must be provided to the consumers before proceeding with the transaction.

(f) A person approved for the regulatory sandbox shall maintain books, accounts, and records for the innovation.

(g) The Department may inspect a person in the regulatory sandbox at any time. Unless it will interfere with the Department's duties under this Act, reasonable notice of the inspection shall be given to the person in the regulatory sandbox. The Secretary or appointed representative shall have full and free access to all the books, papers, and records that relate to the innovation.

(h) A person who winds down the operation of the innovation shall preserve books, accounts, and records, in any form, for the innovation for 5 years after the conclusion of the test period.

(i) The Department may suspend any person in the regulatory sandbox for failing to comply with this Act, including the
failure to comply with the Department’s request for books, accounts, records, or other relevant material.

(j) The Secretary may revoke or suspend admission to or refuse to admit a person to the regulatory sandbox if the Secretary finds that:

(1) the person has failed to pay the application fee;

(2) the person has violated a provision of this Act or a rule adopted by the Secretary under the authority of this Act;

(3) a fact or condition exists which, if it had existed at the time of the original application for admission to the regulatory sandbox, would have warranted the Secretary in refusing initial admission to the regulatory sandbox; or

(4) the person has made a false statement or a false representation to the Secretary in application for admission to the regulatory sandbox.

When a person’s admission to the regulatory sandbox is denied, suspended, or revoked, the Secretary shall serve the person with notice of his or her action, including a statement of the reasons for his or her action, personally, by electronic mail, or by regular mail. Service by mail is completed when the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

Section 25. Extension.

(a) A person in the regulatory sandbox may request a
one-time extension of the regulatory sandbox test period. The request must be made no later than the end of the 11th month of the initial 12-month test period. The request for an extension must specify how long the requester believes will be necessary to produce a conclusive test and state specific reasons why an extension is necessary.

(b) The Department may grant a one-time test period extension of up to 6 months. The Department must grant or deny a request for a one-time test period extension before the end of the initial 12-month test period. A denial of an extension request is within the Department's sole discretion and any such denial is not appealable.

Section 30. Rules. The Secretary may adopt and enforce all reasonable rules necessary or appropriate for the administration of this Act. The rulemaking shall be subject to the provisions of the Illinois Administrative Procedure Act.

Section 35. Judicial review. All final administrative decisions of the Department under this Act shall be subject to judicial review pursuant to the provisions of the Administrative Review Law and any rules adopted pursuant to the Administrative Review Law.

Section 905. The State Finance Act is amended by changing Section 6z-26 as follows:
Sec. 6z-26. The Financial Institution Fund. All moneys received by the Department of Financial and Professional Regulation under the Safety Deposit License Act, the Foreign Exchange License Act, the Pawners Societies Act, the Sale of Exchange Act, the Currency Exchange Act, the Sales Finance Agency Act, the Debt Management Service Act, the Consumer Installment Loan Act, the Illinois Development Credit Corporation Act, the Title Insurance Act, the Debt Settlement Consumer Protection Act, the Debt Management Service Consumer Protection Fund, the Regulatory Sandbox Act, and any other Act administered by the Department of Financial and Professional Regulation as the successor of the Department of Financial Institutions now or in the future (unless an Act specifically provides otherwise) shall be deposited in the Financial Institution Fund (hereinafter "Fund"), a special fund that is hereby created in the State Treasury.

Moneys in the Fund shall be used by the Department, subject to appropriation, for expenses incurred in administering the above named and referenced Acts.

The Comptroller and the State Treasurer shall transfer from the General Revenue Fund to the Fund any moneies received by the Department after June 30, 1993, under any of the above named and referenced Acts that have been deposited in the General Revenue Fund.
As soon as possible after the end of each calendar year, the Comptroller shall compare the balance in the Fund at the end of the calendar year with the amount appropriated from the Fund for the fiscal year beginning on July 1 of that calendar year. If the balance in the Fund exceeds the amount appropriated, the Comptroller and the State Treasurer shall transfer from the Fund to the General Revenue Fund an amount equal to the difference between the balance in the Fund and the amount appropriated.

Nothing in this Section shall be construed to prohibit appropriations from the General Revenue Fund for expenses incurred in the administration of the above named and referenced Acts.

Moneys in the Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 96-1420, eff. 8-3-10.)

Section 999. Effective date. This Act takes effect January 1, 2019.